IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8957 OF 2005

Jijabai Suresh Gaikwad ...Petitioner

Versus

State of Maharashtra & Ors. ...Respondents

Shri Shriram S. Kulkarni for the Petitioner.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 24th JANUARY, 2006.

P.C.

1. Heard Shri Kulkarni and perused the orders impugned in this Petition. The jurisdiction under Articles 226 & 227 of the Constitution of India, which is essentially discretionary and equitable, cannot be utilised to assist a person like the petitioner, who has been found prima-facie guilty of violating the Control Order and the provisions of the Essential Commodities Act. It is clear from a perusal of the materials placed before the Authorities that

grain stock which was meant for poorer sections of the society under several welfare schemes, such as "Antyodaya" and food for persons Below Poverty Line (B.P.L.) has been diverted and traced at the premises which are located at about 2 to 2 1/2 K.Ms from the grain shop in question. Shri Kulkarni could not dispute the fact that the Control Order has elaborate provisions to take care of a contingency where licence holder can request for temporary arrangements being made by him including shifting of stocks in case the premises in which shop is situate requires urgent and immediate repairs or is dilapidated to such an extent that it must be reconstructed. The Control Order takes care of such contingencies and permits parties, like the petitioner, as well as the Supply Authorities to make temporary arrangements so that the ultimate beneficiaries under such schemes are not affected.

2. I cannot loose sight of the fact that

provision of fair price shops is nothing but the duty of the State as enshrined in the Directive Principles under the Constitution of India and more particularly Article 39(b) and (c). Essential commodities are to be made available to people who cannot afford them by paying market price. The purpose of establishing fair price shops and grant authorisation to manage and administer them is to fulfil these objectives. If card holders have difficulties then they are not expected to travel too far to get the commodities which are required for their day to day existence. The very purpose of such authorisation is lost if the shop is not in the near vicinity.

3. The authorisation of the fair price shop has been rightly cancelled after the Authorities noticed the diversion and complaints of the customers that although stocks were lifted, the same were not available for their utilisation.

In such circumstances, it is not for this Court to reappreciate and reappraise the materials and to come to a different conclusion only because the petitioner complains that the principles of natural justice have been violated. No prejudice has been demonstrated to me by not making available to the petitioner the persons concerned for cross-examination. Having perused the reply to the show cause notice, it is abundantly clear that the petitioner has admitted that the stocks were lifted and that they were stored at a distance of 2 to 2 1/2 K.Ms. The plain duty of the petitioner was to abide by the Rationing Control Order as also take prior permission if at the time of lifting the stock from the concerned authorities alternate arrangement was necessary for storage and availability to the ultimate beneficiaries. If the ultimate beneficiaries are not going to get the fruits of such schemes, then, the purpose of allowing the petitioner to manage and administer a Ration Shop is defeated

and the Authorities have rightly stepped in. Petition dismissed.

(S.C.DHARMADHIKARI, J)